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## Background on the AICPA/NASBA Uniform Accountancy Act-What Does It Mean?

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## Background On The AICPA/NASBA Uniform Accountancy Act-What Does It Mean?

**This document explains all the key provisions of the UAA and acts as a guide to specific changes, by paragraph.**

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### Background

In 1997, the AICPA and NASBA approved significant changes to their jointly published **Uniform Accountancy Act (UAA)** and **Uniform Accountancy Act Rules**. The UAA is a model bill and set of regulations that AICPA and NASBA designed to provide a uniform approach to regulation of the accounting profession.

The recent changes made to the UAA reflected the major recommendations of the AICPA/NASBA Joint Committee on Regulation of the Profession (Joint Committee). The Joint Committee studied the issue of regulation for more than a year before issuing its report in May 1997. The report included numerous suggestions for improving the current state-based regulatory system for the profession as it moves into the next century.

As the Joint Committee carried out its deliberations, it focused on a number of current environmental factors that are affecting the accounting profession and its regulation. These include:

- Globalization of Business
- Information and Electronic Technology
- Expansion of Services
- Legal Challenges to the Current Regulatory System
- Demographic Shifts in the Profession

The Joint Committee also identified several key goals that are

of central importance to any modification of the current regulatory system for CPAs in today's global economy and marketplace. These include:

**Equality** — To ensure that all who wish to use the CPA title are licensed and subject to state board of accountancy regulation regardless of their field of employment. The Act also promotes rules for licensing, practice and ethics that are more uniform across jurisdictions and removes barriers that limit CPAs from using the CPA title.

**Ease of Movement** — To permit ease of mobility for CPAs across state lines, in person or electronically, in order to serve clients and employers outside the state where CPAs are licensed.

**Response to the Marketplace** — To remove barriers that unnecessarily limit CPAs and CPA firms from competing effectively in the marketplace for a broad range of professional services. The UAA provides a balance between public protection and free market competition.

**Protection of the Public Interest** — To ensure an effective enforcement system. The UAA enhances protection of the public interest where it is most critical—that is, in the area of attest services. But the Act also assures that anyone who uses the CPA title must adhere to an appropriate level of professionalism.

The following is a brief summary of the recent changes to the UAA. References to sections of the UAA or UAA Rules are provided for convenience.

### **Substantial Equivalency**

Perhaps the most significant change in the UAA relates to providing greater ease of mobility across state lines for CPAs both in person and electronically. The cornerstone of the approach recommended by the Joint Committee is the concept of "Substantial Equivalency" originated by NASBA.

Under this concept, if a CPA has a license in good standing from a state that utilizes CPA certification criteria that are essentially those outlined in the UAA, then the CPA would be qualified to practice in another state that is not the CPA's principal place of business. To use the concept to obtain a reciprocal license, a CPA must personally have qualifications that are substantially equivalent to those in the UAA. A NASBA Qualification Appraisal Service will be available to make these determinations of equivalency at the request of state boards, on a state-by-state basis, as well as for individuals. **(UAA Sections 6(c)(2), 23 and UAA Appendix C).**

Individual CPAs who practice across state lines, or who service clients in another state via electronic technology, would not be required to obtain a reciprocal license if they hold a valid license from another state and if their state of licensure is deemed substantially equivalent, or if they are individually deemed substantially equivalent. In this case, the CPA must notify the state board in the state in which the service will be performed. **(UAA Section 23(a)(1)(2)).**

If a CPA relocates to another state and establishes his or her "principal place of business" in that state then he or she would be required to obtain a license in that state. Likewise, if a firm opens an office in a state, the firm would be required to obtain a license in that state.

To assure protection of the public, provisions have been added to the UAA to enable state boards to discipline licensees from other states who practice in their state under substantial equivalency. In addition, the state of the licensee's principal place of business, which has the power to revoke his or her license, will have the authority to discipline licensees if they violate the law in another state when performing services outside the state. Another provision assures that the state board in the state of the CPA's principal place of business will be required to give consideration to complaints made by state boards of other jurisdictions. **(UAA Section 23(a)(3), (b)).**

### **CPA=CPA**

The Joint Committee recommended that all CPAs, regardless of their particular field or place of employment, be subject to licensure and regulation by a state board of accountancy. The UAA accomplishes this by requiring all individuals who wish to use the CPA title to hold a valid license. **(UAA Section 3(c),(f), Section 14(c)).** Individuals may obtain a CPA license once they demonstrate they have met appropriate education, examination and experience requirements. **(UAA Section 5).** This license must be renewed periodically by demonstrating compliance with a CPE requirement. **(UAA Section 6).**

As long as individuals hold a CPA license they are subject to the authority of the state board of accountancy, regardless of what they do for a living and regardless of whether they use their CPA title. All licensees must comply with the accountancy law and regulations. **(UAA Section 10).**

The definitions of "holding out" and "practice of public accountancy" have been removed from this latest version of the UAA. Now, regardless of where they work or what they do, all licensees are subject to regulation by the state board. These changes are also consistent with recent court decisions ruling that duly licensed CPAs may use their title or "hold out" as CPAs regardless of where they work.

### **CPAs Working in Non-CPA Firms**

The historical regulatory framework for CPAs, that is one requiring CPAs to offer all public accounting services only through a CPA firm, has been called into question in light of current business practices and litigation. The UAA recognizes these phenomena, but also makes it clear that in all cases individual CPAs will be licensed and subject to state board regulation.

Under the UAA, CPAs are not required to offer services to the public, other than traditional attest services, through a CPA firm. CPAs may offer other services through any type of entity they choose. These entities are not licensed by the state board, and there are no CPA ownership requirements for them as long

as they do not call themselves CPA firms or use the term "CPAs" in association with the entity name. However, all individual CPAs working in such entities must hold a valid license and are subject to regulation and discipline by the state board. **(UAA Section 7(a)).**

### **Regulation of CPA Firms**

The Joint Committee recommended changes in the regulation of CPA firms to respond to changes in the marketplace for CPA services, the expanded use of non-CPAs within CPA firms, the need by firms to raise capital and recent court decisions on who can call themselves CPAs.

Under the UAA, those CPAs who wish to offer or render "attest services" for the public must do so in a CPA firm that is duly licensed by the state board of accountancy. **(UAA Section 7).** These firms must undergo peer review every three years **(UAA Section 7(h))** and assure that those CPAs in the firm who supervise traditional attest engagements and sign or authorize someone to sign reports on financial statements meet an appropriate competency requirement that is spelled out in professional standards. **(UAA Section 7(c)(3), (4)).** CPAs who do not perform traditional attest services may also organize as a CPA firm, and are subject to all of the applicable regulations for CPA firms.

A simple majority of the ownership of the CPA firm, in terms of financial interests and voting rights of all partners, officers, shareholders, etc. must belong to individuals licensed as CPAs in some state and the partners, officers, shareholders, etc., eligible for licensure as CPAs must be licensed in the state in which they have their principal place of business and perform professional services. **(UAA Section 7(c)(1)).**

All non-CPA owners of the firm must be active individual participants in the firm or its affiliated entities. The firm must designate and identify to the state board a licensee in the state who is responsible for the proper registration of the firm. **(UAA Section 7(c)(2)).** The CPA firm name may not include the name of a non-CPA if "CPAs" is also included in the firm name, as this would be misleading to the public. **(UAA Rule 14-1).**

The Joint Committee believes these changes to the basic regulation of CPA firms will assure continued protection of the public in the most critical service area traditional attest services. The attest competency requirement will actually provide additional public protection by assuring competency of those individuals responsible for this function within CPA firms. At the same time, these changes also recognize that the structure of CPA firms, and the non-CPA firms they compete with, has changed in recent years and that the courts have defined much broader rights of practice for CPAs in these areas.

### **Reserved Services and SSARS Compilations**

In the past, the UAA and its predecessor *Model Public Accountancy Bill* reserved the issuance of reports on audits, reviews and compilations, performed in accordance with professional standards (SASs and SSARS), to licensees. The

UAA modifies that concept slightly, by including other engagements performed in accordance with the Statements on Auditing Standards (SASs) and examinations of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements (SSAE) in this category of restricted services for licensees, which are defined as "attest services." **(UAA Section 3(a), Section 14(a)).**

A definition of "attest services" has been added to the UAA, because it now plays a critical role in defining requirements for licensees and firms that perform these services. **(UAA Section 3(a)).** Attest services include: (1) any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS); (2) any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS); and (3) any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE). The critical requirements that apply to attest services include:

- Attest services may only be performed by a licensee operating in a licensed firm. **(UAA Section 7(a), Section 14(a)).**
- Firms that perform attest services must undergo peer review every three years. **(UAA Section 7(h)).**
- Licensees who supervise attest engagements for their firms and sign or authorize someone to sign reports on financial statements must have met certain competency requirements that are defined in the professional standards. **(UAA Section 7(c)(3), (4)).**
- Licensed firms must show that attest services are under the charge of a licensee. **(UAA Section 7 (d)).**
- Licensees or firms cannot accept commissions or contingent fees for products or services provided to clients for whom they also perform attest services. **(UAA Section 14(n)(o)).**

Because compilation services do not provide explicit assurance on financial statements they are not included in the definition of attest services. However, there is widespread use of compilations performed by licensees because the SSARS compilation report implies that the licensee has special knowledge and competency with respect to accounting and auditing. For this reason, SSARS compilations are reserved to licensees in the UAA. The requirements for licensees who perform compilations include:

- Licensees who prepare and issue compilations while working for a non-CPA firm must sign the compilation report as an individual CPA **(UAA Section 14 (l)).**
- Licensees and firms that prepare and issue compilations must undergo peer review every three years **(UAA Sections 6 (j) and 7 (h)).**
- Licensees who supervise compilation engagements and

sign or authorize someone to sign compilation reports on financial statements must meet certain competency requirements defined in the professional standards. Compliance with this requirement will be monitored through the mandatory peer review process and through complaints received by the state board **(UAA Sections 7 (h) and 14 (l))**.

- Licensees and firms that prepare and issue compilations can not accept commissions or contingent fees for products or services that they provide for compilation clients **(UAA Section 14 (n - o))**.

### **Safe Harbor Language**

The UAA also includes "safe harbor" language for use by unlicensed individuals. Under the UAA, only licensees may express an opinion or assurance on financial statements or use report language that implies the financial statements have been prepared in accordance with professional standards (SSARS). **(UAA Section 14(a)(b))**. However, unlicensed individuals may perform basic accounting services and issue financial statements on which they do not opine and which they do not purport to be prepared in accordance with professional standards (SSARS).

The "safe harbor" language added to the UAA **(UAA Rule 14-3)** is acceptable language that unlicensed individuals may use in association with financial statements that would not be in violation of the law and rules. While use of the language is voluntary, this safe harbor language gives guidance to the unlicensed to assist them in complying with the law. More than twenty (20) states have some type of safe harbor language for use by unlicensed individuals.

### **Experience for Licensure**

Under the broad regulatory approach of CPA equality in the UAA, all CPAs will be regulated in everything they do. As a result, the Joint Committee decided that a "public accounting" experience requirement prior to licensure (as was the case in the prior UAA) was too restrictive in light of today's environment for CPA services. Over half of today's accounting graduates pursue initial employment outside of public accounting.

Therefore, the UAA contains a broad experience requirement for initial licensure of one year providing any type of professional service or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills which must be verified by a licensee. This experience can be gained through employment in government, industry, academia or public practice. **(UAA Section 5(i), UAA Rule 6-2)**.

### **Competency Requirement for Attest and Compilation Services**

While the UAA moves to a broader experience requirement for initial licensure as described above, it also adds a feature requiring additional specific demonstrated competency for

appropriate individuals in firms that perform traditional attest and compilation services. **(UAA Section 7(c)(3), (4))**.

This requirement is designed to provide protection to the public with respect to the most sensitive services provided by licensees. Any licensee who is responsible for supervising traditional attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm must comply with the appropriate competency requirement for such services as dictated by professional standards.

AICPA and NASBA worked cooperatively to develop professional standards that provide adequate protection to the public in this sensitive area.

Compliance with this requirement will be monitored through the mandatory peer review process for firms, and individuals **(UAA Sections 6 (j) and 7(h), UAA Rules 6-10 and 7-3)** and through complaints received by state boards.

### **CPE**

The UAA maintains the previous CPE requirement for license renewal of 120 hours of CPE during a three-year period preceding renewal, with a minimum of 20 hours in each year. However, the UAA also references the Statement on Standards for Continuing Professional Education (CPE) Programs jointly issued by NASBA and AICPA. **(UAA Rule 6-4 (a))**.

The CPE committees of NASBA and AICPA are currently studying the whole concept of CPE based on developing a CPA's competency. As new approaches to CPE are developed they will be incorporated into the CPE Standards. By referencing the Standards in accountancy regulations, state boards can more easily implement changes and they will provide greater uniformity to the approach to CPE that will be provided in the states.

The UAA also allows for an exemption from CPE for CPAs who are retired or inactive and do not offer or render services to the public. Those individuals must include the word "inactive" adjacent to their CPA designation on business cards, letterhead, etc. **(UAA Rule 6-7)**.

Finally, the CPE records requirements in the UAA have changed. No longer will CPAs be required to submit documentation of every CPE course they have attended along with their renewal application. Rather, they will be required to sign a statement indicating they have complied with the state's requirements for CPE programs, and they must retain documentation on the CPE programs they attend for a period of five years. **(UAA Rules 6-6(a))**.

### **Regulation of Fees (Commissions/Contingent Fees)**

Previous editions of the UAA were silent on the issue of licensees accepting commissions and contingent fees and therefore could be construed as not prohibiting their acceptance in any way. Currently, forty states permit licensees to accept these types of fees on some basis, while the rest continue to prohibit acceptance of such fees. The trend in



recent years has been a move by states to permit such fee arrangements or permit acceptance under limited circumstances.

Provisions **(UAA Section 14(m) and (n))** in the UAA provide for the acceptance of commissions and contingent fees in certain situations mirroring the AICPA Code of Professional Conduct rules. Basically, they enable licensees to accept commissions that are disclosed to clients, except in situations where licensees perform traditional attest services for the client. In addition, licensees can accept contingent fees for services, except from clients for whom they perform attest services and except for preparing an original tax return. Contingent fees for preparation of amended tax returns or refund claims would be permitted, as long as the licensee had a reasonable expectation the claim would be the subject of a substantive review by the taxing authority.

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